

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition for the
Incorporation of Baldwin Township
(MBAU Docket I-75)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

This matter came before Administrative Law Judge Jessica A. Palmer-Denig for an evidentiary hearing on the Petition for Incorporation (Petition) of the Baldwin Town Board (Township), on March 7 and 8, 2024, at the Baldwin Town Hall in Baldwin Township, Minnesota. The Administrative Law Judge also conducted a hearing to receive comments from the public on March 7, 2024, and received additional written public comments following the hearing. The record closed upon receipt of the final filings in this matter on April 19, 2024.

Michael C. Couri and Robert T. Ruppe, Couri & Ruppe, P.L.L.P., appeared on behalf of the Township. Kelly Bourgeois and Damien Toven, Toven and Associates, appeared on behalf of the City of Princeton (City).

STATEMENT OF THE ISSUE

1. Has the Township established that it meets the criteria provided in Minn. Stat. § 414.02 (2022), and that it should be incorporated as a city?
2. Should a portion of the Township's land be excluded from the area for incorporation and instead be annexed to the City?

SUMMARY OF CONCLUSION

The Township has established by a preponderance of the evidence that it meets the criteria for incorporation found in Minn. Stat. § 414.02, and that its Petition should be **GRANTED** as to all land within the area proposed for incorporation. The City's request for annexation of a portion of the Township's land is **DENIED**.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

I. Procedural History

1. On January 8, 2024, the Township filed Resolution No. 23-44 entitled In the Matter of the Petition of Baldwin Township for Incorporation Pursuant to Minnesota Statutes § 414.02, requesting an order of incorporation granting its Petition.¹

2. As required by Minn. Stat. § 414.02, subd. 1a(a), on December 5, 2023, more than 30 days prior to filing its original petition, the Township served notice of intent to incorporate on all cities and townships abutting the Township.²

3. The Administrative Law Judge held a prehearing conference by telephone on January 19, 2024,³ and subsequently issued a Prehearing Order setting this matter for an evidentiary hearing and public information and comment meeting on March 7, 2024. The Order also extended the evidentiary hearing to March 8, 2024, if an additional day of testimony became necessary.⁴

4. The Administrative Law Judge issued a Notice of Hearing to provide the public with notice of the evidentiary hearing and public comment hearing.⁵

5. As required by Minn. Stat. § 414.09, subd. 1(c)-(d) (2022), the Notice of Hearing was published for two successive weeks in the Union-Times, and the notice was served on the Township, Sherburne County, and all cities and townships abutting the Township.⁶

6. An evidentiary hearing was held on March 7 and 8, 2024, at the Baldwin Town Hall.⁷ The City participated in the hearing, but it did not become a party to this matter.

7. The Township offered sworn testimony from nine witnesses, and the Township's Exhibits 1-66 were received into the record. The City offered sworn testimony from six witnesses and the Administrative Law Judge received into the record the City's Exhibits 101-112. After the hearing and before the close of the record, the Township supplemented its exhibits by filing Exhibit 67, which was also received.

8. At the hearing, the Township amended the legal description for the property within its incorporation area (Subject Area).⁸ The Township also supplemented the record

¹ Resolution No. 23-44 (Dec. 4, 2023).

² Kathleen Budish Affidavit (Aff.) of Service by Mail (Dec. 5, 2023).

³ Order for Prehearing Conference (Jan. 10, 2024); Prehearing Conference Digital Recording (Jan. 19, 2024) (on file with the Minn. Office Admin. Hearings).

⁴ Prehearing Order (Jan. 24, 2024).

⁵ Notice of Hearing (Feb. 7, 2024).

⁶ Rhonda Herberg Aff. of Publication (Feb. 22, 2024); Certificate of Service (Feb. 7, 2024).

⁷ Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings); Hearing Digital Recording (Mar. 8, 2024) (on file with the Minn. Office Admin. Hearings).

⁸ Exhibit (Ex.) 13 at 8.

by filing Township Resolution No. 24-16 on April 19, 2024.⁹ This resolution formally ratified the amended property description.¹⁰

9. This proceeding included numerous opportunities for participation by members of the public. The Notice of Hearing established a deadline of February 29, 2024, for submission of written public comments prior to the hearing.¹¹ The evidentiary hearings on March 7 and 8, 2024, were open to the public and were well attended.¹² The Administrative Law Judge held a public comment hearing on March 7, 2024, at the Baldwin Town Hall.¹³ Approximately 1,000 people attended the hearing.¹⁴ The Administrative Law Judge issued a Post-Hearing Scheduling Order on March 11, 2024, establishing a deadline of March 22, 2024, for receipt of additional written public comments.¹⁵

10. The Administrative Law Judge has reviewed and considered all public comments submitted in this matter, including those submitted after the final deadline. The late-filed comments are consistent with other comments filed in this case and were provided to the Township before the record closed. The Administrative Law Judge determines that consideration of these comments does not result in prejudice to the Township.

11. The record closed upon the submission of final filings by the Township and City on April 19, 2024.

II. Background

12. The Township is located in the northeast corner of Sherburne County, Minnesota.¹⁶

13. The Township is approximately 45 miles north of the Twin Cities and approximately 35 miles east of St. Cloud, Minnesota.¹⁷

14. The Township was originally organized in 1850 and, at that time, the Township contained all of the land area presently located in the Township, Blue Hill Township, and Santiago Township.¹⁸ In 1877, the Township was reorganized, and its land area reduced to include the land within its present boundaries.¹⁹

⁹ Ex. 67.

¹⁰ *Id.*

¹¹ Notice of Hearing (Feb. 7, 2024).

¹² Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings); Hearing Digital Recording (Mar. 8, 2024) (on file with the Minn. Office Admin. Hearings).

¹³ Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings).

¹⁴ Statement of Fire Chief Scott Case (Hearing Digital Recording (Mar. 8, 2024) (on file with the Minn. Office Admin. Hearings)).

¹⁵ Post-Hearing Scheduling Order (Mar. 11, 2024).

¹⁶ Ex. 4 at 4.

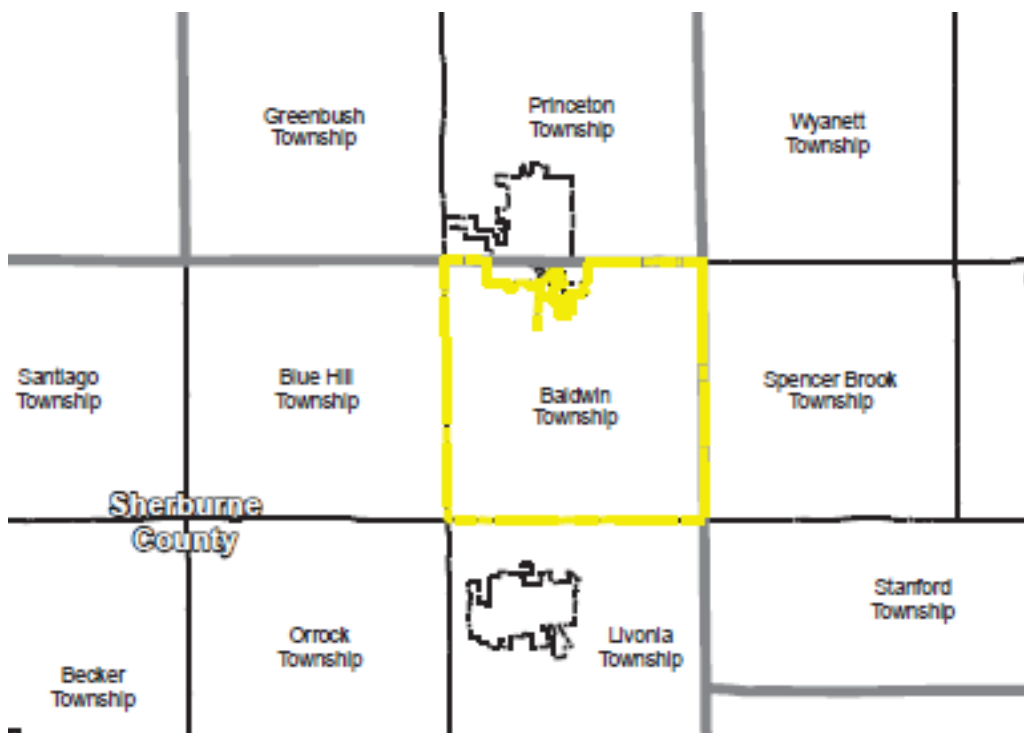
¹⁷ Ex. 2 at 22.

¹⁸ Ex. 4 at 4.

¹⁹ *Id.*

15. The Township is bordered on the north by the City and Princeton Township; at its northwest corner by Greenbush Township, on the west by Blue Hill Township; on its southwest corner by Orrock Township; on the south by Livonia Township; on its southeast corner by Stanford Township; on the east by Spencer Brook Township; and on its northeast corner by Wyanett Township.²⁰

16. A map depicting the Township in relation to the surrounding communities is below.²¹



17. The Townships of Greenbush, Orrock, Princeton, Blue Hill, Livonia, and Spencer Brook adopted resolutions supporting the Petition.²²

18. Other than the City, no community bordering the Township expressed opposition to the Petition. The City opposed the Petition and requested that a portion of the Subject Area instead be annexed to the City.²³

19. The legal description of the Subject Area, as amended at the hearing, is as follows:²⁴

²⁰ *Id.* at 4, 6.

²¹ *Id.* at 6.

²² Ex. 14.

²³ See City of Princeton Evidentiary Testimony Opposing Baldwin Township Incorporation.

²⁴ Ex. 13.

All of the following Sections: 1, 2, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 located in Township 35 north, Range 26 west, Sherburne County, Minnesota;

AND

Those portions of the following described sections:

All of Section 3, Township 35 North, Range 26 West, Sherburne County, Minnesota, EXCEPT therefrom the following properties:

- The west 1,650 feet of the NW $\frac{1}{4}$ of Section 3, Township 35 North, Range 26 West, Sherburne County, Minnesota.
- That part of E $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 4, and that part of SW $\frac{1}{4}$, Section 3, described as follows: Commencing at southeast corner of Section 4, also southwest corner of Section 3; thence north along east line of said Section 4 (also west line of Section 3) for 1,200 feet to actual point of beginning; thence south 89 degrees 17 minutes west 1,200 feet along a line parallel to south line of Section 4; thence north 1,400 feet parallel to east line of Section 4; thence north 89 degrees 17 minutes east on a line parallel to south line of Section 4 1,200 feet to a point on east line of Section 4; thence north 89 degrees 46 minutes east 967 feet on a line parallel to south line of Section 3; thence south 15 degrees 27 minutes east 212.9 feet; thence south 41 degrees 28 minutes east 501.9 feet; thence south 27 degrees 55 minutes east 585 feet; thence south and parallel to west line of Section 3 300 feet; thence south 89 degrees 46 minutes west and parallel to south line of Section 3 1,620 feet to point of beginning. Except the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, except therefrom that point which lies northerly of the south 1,235 feet and westerly of the east 1,200 feet; and that part of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ which lies within the boundary lines of a tract described above in document 92047, Sections 3 and 4, Township 35 North, Range 26 West, Sherburne County.

That part of Northeast Quarter of Section 4, Township 35 North, Range 26 West, Sherburne County, Minnesota, described as follows:

- That part of the Northeast Quarter of Section 4, Township 35, Range 26, Sherburne County, Minnesota, lying westerly of the westerly right of way line of 122nd Street.
- All of the Southwest Quarter of the Northeast Quarter of Section 4, except that part of the Southwest Quarter of the Northeast Quarter of Section 4, Township 35, Range 26, Sherburne County, Minnesota, described as follows: Beginning at the point of intersection of the East line of STATE HIGHWAY RIGHT OF WAY PLAT NO. 71-2, said Sherburne County, with the North line of said Southwest Quarter of the Northeast Quarter; thence Southerly, along said East line of STATE HIGHWAY RIGHT OF WAY PLAT

NO. 71-2, a distance of 170.50 feet; thence Easterly, parallel with said North line of the Southwest Quarter of the Northeast Quarter, a distance of 311.00 feet; thence Southerly, parallel with said East line of STATE HIGHWAY RIGHT OF WAY PLAT NO. 71-2, a distance of 115.00 feet; thence Easterly, parallel with said North line of the Southwest Quarter of the Northeast Quarter, a distance of 66.00 feet; thence Northerly, parallel with said East line of STATE HIGHWAY RIGHT OF WAY PLAT NO. 71-2, a distance of 285.50 feet to the point of intersection with said North line of the Southwest Quarter of the Northeast Quarter; thence Westerly, along said North line of the Southwest Quarter of the Northeast Quarter, a distance of 377.00 feet to the point of beginning.

All of the Southeast Quarter of Section 4, Township 35 North, Range 26 West, Sherburne County, Minnesota, EXCEPT therefrom the following properties:

- The Northeast Quarter of the Southeast Quarter of Section 4, Township 35 North, Range 26 West, except therefrom that part which lies northerly of the south 1,235 feet and westerly of the east 1,200 feet.
- That part of the south 1235 feet of the Northwest Quarter of the Southeast Quarter of Section 4, Township 35, Range 26, Sherburne County, Minnesota, EXCEPT the north 505 feet of the south 2472.5 feet of the west 604 feet of said Southeast Quarter and EXCEPT that part of said Northwest Quarter of the Southeast Quarter described as the north 730 feet of the south 1967.5 feet of the west 264 feet of said Southeast Quarter.
- That part of the Southwest Quarter of the Southeast Quarter of Section 4, Township 35, Range 26, Sherburne County, Minnesota, lying north of the south 297 feet thereof, EXCEPT the north 371 feet of the south 1204.05 feet of the west 264 feet of said Southwest Quarter of the Southeast Quarter, and EXCEPT the south 412.5 feet of the west 264 feet of said Southwest Quarter of the Southeast Quarter, and EXCEPT the north 264 feet of the south 561 feet of the east 430 feet of said Southwest Quarter of the Southeast Quarter, and EXCEPT that part of the west 264 feet of said Southwest Quarter of the Southeast Quarter lying north of the south 1257.5 feet thereof.
- That part of the south 1200 feet of the Southeast Quarter of the Southeast Quarter of Section 4, Township 35, Range 26, Sherburne County, Minnesota, EXCEPT the east 400 feet of said Southeast Quarter of the Southeast Quarter, and EXCEPT the south 561 feet of the east 660 feet of the west 1900 feet of said Southeast Quarter.

All of the Southwest Quarter of Section 4, Township 35 North, Range 26 West, Sherburne County, Minnesota, EXCEPT therefrom the following properties:

- That part of the Southwest Quarter of Section 4, Township 35 North, Range 26 West, Sherburne County, Minnesota, described as follows: Beginning at the northwest corner of said Southwest Quarter of Section 4; thence South on the west line of said Southwest Quarter a distance of 413 feet; thence East parallel with the north line of said Southwest Quarter of Section 4, to the westerly line of the railroad right-of-way as presently located and established; thence northerly along said westerly line of the railroad right-of-way to the north line of the said Southwest Quarter of Section 4; thence West on and along said north line to the point of beginning. Less and Except that part of the Northwest Quarter of the Southwest Quarter of Section 4, Township 35 North, Range 26 West, shown as Parcel 4370 on the plat designated as State Highway Right-of-Way Plat Number 71-1 on file and of record in the office of the Register of Deeds in and for Sherburne County, Minnesota.
- Lot 7, Block 1, plat of Railside, Sherburne County, Minnesota
- Lot 1, Block 1, PUC Plat, Sherburne County, Minnesota
- Lot 1, Block 1, plat of Railway Properties, Sherburne County, Minnesota
- Outlot A, PUC Plat, Sherburne County, Minnesota

All of the Southeast Quarter of Section 5, Township 35 North, Range 26 West, Sherburne County, Minnesota, EXCEPT therefrom the following properties:

- The Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 5, Township 35 North, Range 26 West, Sherburne County, Minnesota.

All of the Southwest Quarter of Section 5, Township 35 North, Range 26 West, Sherburne County.

All of Section 9, Township 35 North, Range 26 West, Sherburne County, Minnesota, EXCEPT therefrom the following properties:

- Outlot A, PUC Plat, Sherburne County, Minnesota.
- That part of the North Half of the Northeast Quarter (N1/2 of NE1/4) of Section Nine (9), Township Thirty-five (35), Range Twenty-six (26), Sherburne County, Minnesota, described as follows: Beginning at a point on the North line of said Northeast Quarter of Section 9, Township 35, Range 26, which point is 800.02 feet East of the Northwest corner thereof; thence in a Southerly direction parallel with the West line of said Northeast Quarter to the South line of the North Half of the Northeast Quarter; thence in an Easterly direction along the South line of said North Half of the Northeast Quarter to the Southeast corner of the North Half of the Northeast

Quarter of Section 9, Township 35, Range 26; thence in a Northerly direction along the East line of said Northeast Quarter of Section 9, Township 35, Range 26, to the Northeast corner thereof; thence in a Westerly direction along the North line of said Northeast Quarter to the point of beginning, according to the U.S. Government Survey thereof.

EXCEPT any land annexed to the City of Princeton in MBAU Docket No. OA-1894-1 by order issued July 16, 2024.

III. Incorporation Factors Under Minn. Stat. § 414.02, subd. 3.

20. Under Minn. Stat. § 414.02, subd. 3(a), a petition for incorporation must be evaluated using 13 factors. Those factors are:

(1) present population and number of households, past population and projected population growth for the subject area;

(2) quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(3) present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses;

(4) the present transportation network and potential transportation issues, including proposed highway development;

(5) land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls;

(6) existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services;

(7) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(8) fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units,

including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues;

(9) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(10) whether delivery of services to the subject area can be adequately and economically delivered by the existing government;

(11) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(12) degree of contiguity of the boundaries of the subject area and adjacent units of local government; and

(13) analysis of the applicability of the State Building Code.²⁵

A. The present population and number of households, past population and projected population growth for the subject area.

21. In 2020, the Township had a population of 7,104, and it included 2,531 households.²⁶

22. The Minnesota State Demographic Center estimates that the Township had a population of 7,043 in 2022.²⁷ The reduction in population between 2020 and 2022 is due, at least in part, to the City's annexation of a mobile home park in 2021, through which 240 Township residents became residents of the City.²⁸

23. There are 1,779 townships in Minnesota.²⁹ Of that number, the Township is the third most populous, and only Big Lake Township and White Bear Township have populations larger than that of the Township.³⁰

24. Based on 2022 estimates, the Township's size exceeds the population of 721 of Minnesota's 855 cities.³¹ If the Township were a city today, it would be the fourth largest in Sherburne County.³²

²⁵ Minn. Stat. § 414.02, subd. 3(a)(1)-(13).

²⁶ Ex. 4 at 8.

²⁷ *Id.* at 7.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

25. The Township has experienced substantial population growth over the last two decades. Between 2000 and 2020, the Township's population grew by 53.7 percent.³³ The number of households in the Township grew 62.7 percent between 2000 and 2020.³⁴

26. The Township has developed a conservative projection of its likely population growth over the next few decades.³⁵ According to these projections, the Township estimates that it will have 8,762 residents and 3,107 households by 2040.³⁶

B. The quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.

27. There are approximately 22,177 acres of land within the Township.³⁷

28. The southern portion of the Township has a natural terrain that is moderately rolling, and the terrain in the northern portion of the Township is relatively flat.³⁸ Elevations range from 950 feet to 1,050 feet above mean sea level.³⁹

29. The Township's primary soil types are Zimmerman Sand, Isanti Sandy Loam, Lino Loamy Fine Sand, and Elk River Sand.⁴⁰ The Township's soils are very deep, excessively drained soils that formed in sandy glacial outwash or eolian sediments on glacial outwash plains, stream terraces, deltas, lake terraces, dunes, beach deposits, and valley trains.⁴¹

30. When the Township was organized, residents focused on agricultural activities, but over time, agriculture has declined and many farms have been developed into residential subdivisions.⁴² The soils in the Township generally support continued suburban development.⁴³

31. The Subject Area has extensive public waters, including the Rum River in the northeast of the Township, as well as lakes and wetlands.⁴⁴ The portion of the Rum River that runs through the Township is designated as "scenic," and the river and its shorelines are protected through the Minnesota Department of Natural Resources' Wild

³³ *Id.* at 8.

³⁴ *Id.*

³⁵ *Id.* at 8-9.

³⁶ *Id.* at 9.

³⁷ *Id.* at 15, 17.

³⁸ *Id.* at 9.

³⁹ *Id.*

⁴⁰ Ex. 1 at 7; Ex. 4 at 9.

⁴¹ Ex. 4 at 9.

⁴² *Id.* at 4, 10, 15.

⁴³ *Id.* at 10.

⁴⁴ *Id.* at 10-11.

and Scenic River Program.⁴⁵ The Township has approximately 5,231 acres of shoreland, and 1,339 acres that have been designated as wild and scenic.⁴⁶

32. A portion of the Subject Area is within the Rum River Watershed and the remaining area is within the Mississippi River-St. Cloud Watershed.⁴⁷ The Township is subject to the 2018-2028 Sherburne County Local Water Management Plan.⁴⁸

C. The present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses.

33. Existing land uses in the Township include a mix of land use types, including single-family residential neighborhoods, commercial properties, industrial properties, public uses, parks, and agricultural properties.⁴⁹

34. Of these uses, large lot residential uses account for 50.4 percent of the acreage in the Township.⁵⁰ Many of the Township's residential properties are in platted subdivisions, and the Township is approaching full build-out of land available to be subdivided and developed.⁵¹

35. The Township requires that single-family residential lots be a minimum of 2.5 acres, with a minimum of 40,000 square feet of buildable land for structures and a subsurface sewage treatment system.⁵²

36. Most of the residential lots in the Township are less than ten acres.⁵³ Lots ten acres or less are difficult to subdivide into smaller properties due to the limited land area of such lots, the placement of any existing structures, and the cost constraints of allocating infrastructure across a small new development.⁵⁴

37. Agricultural uses account for approximately 40.6 percent of the Township's lands.⁵⁵

⁴⁵ *Id.* at Appendix A at 7.

⁴⁶ *Id.* at 19.

⁴⁷ Ex. 1 at 6; Ex. 4 at 12.

⁴⁸ Ex. 1 at 6, Ex. 4 at 12.

⁴⁹ Ex. 4 at 15.

⁵⁰ *Id.* at 14-15.

⁵¹ *Id.* at 15; Testimony (Test.) of Dan Licht.

⁵² Ex. 4 at 31.

⁵³ Ex. 1 at 7; Ex. 4 at 16; Test. of D. Licht.

⁵⁴ Ex. 4 at 14; *see also* Ex. 2 at 58-61 (considering feasibility of further subdividing specific existing residential lots).

⁵⁵ Ex. 4 at 15.

38. A small portion of the Township is zoned for commercial and industrial uses.⁵⁶ Property zoned as commercial accounts for only 0.5 percent of the Township's lands, while industrial properties are only 0.1 percent of the Township's area.⁵⁷

39. These commercial and industrial zones are largely located along the U.S. Highway 169 corridor, which bisects the Township.⁵⁸

40. Small portions of the Township are designated as public or quasi-public land and parks or open spaces.⁵⁹ Together, these public uses account for approximately 2.2 percent of the Subject Area.⁶⁰

41. The Township also has several environmental protection zoning districts related to shoreland management, public waters, and floodplain management.⁶¹

42. For example, the Township established the Rum River Wild and Scenic Overlay District to protect and manage development along the bluff land and shoreline of the Rum River, to protect the scenic value and water quality of the area. And to minimize harmful impacts from development.⁶²

43. The Township's environmental protection zoning districts have been approved by the Minnesota Department of Natural Resources and Sherburne County.⁶³

44. A map depicting the present land use within the Township is located below.⁶⁴ On the Township's land use map, agricultural areas are depicted in light green, residential properties are yellow, commercial uses are shown in red, and industrial properties are blue, while parks and public lands are depicted, respectively, in dark green and pink.⁶⁵

⁵⁶ See Ex. 11 (depicting the Township's business district).

⁵⁷ Ex. 4 at 15.

⁵⁸ *Id.*; Ex. 2 at 22.

⁵⁹ Ex. 4 at 15.

⁶⁰ *Id.*

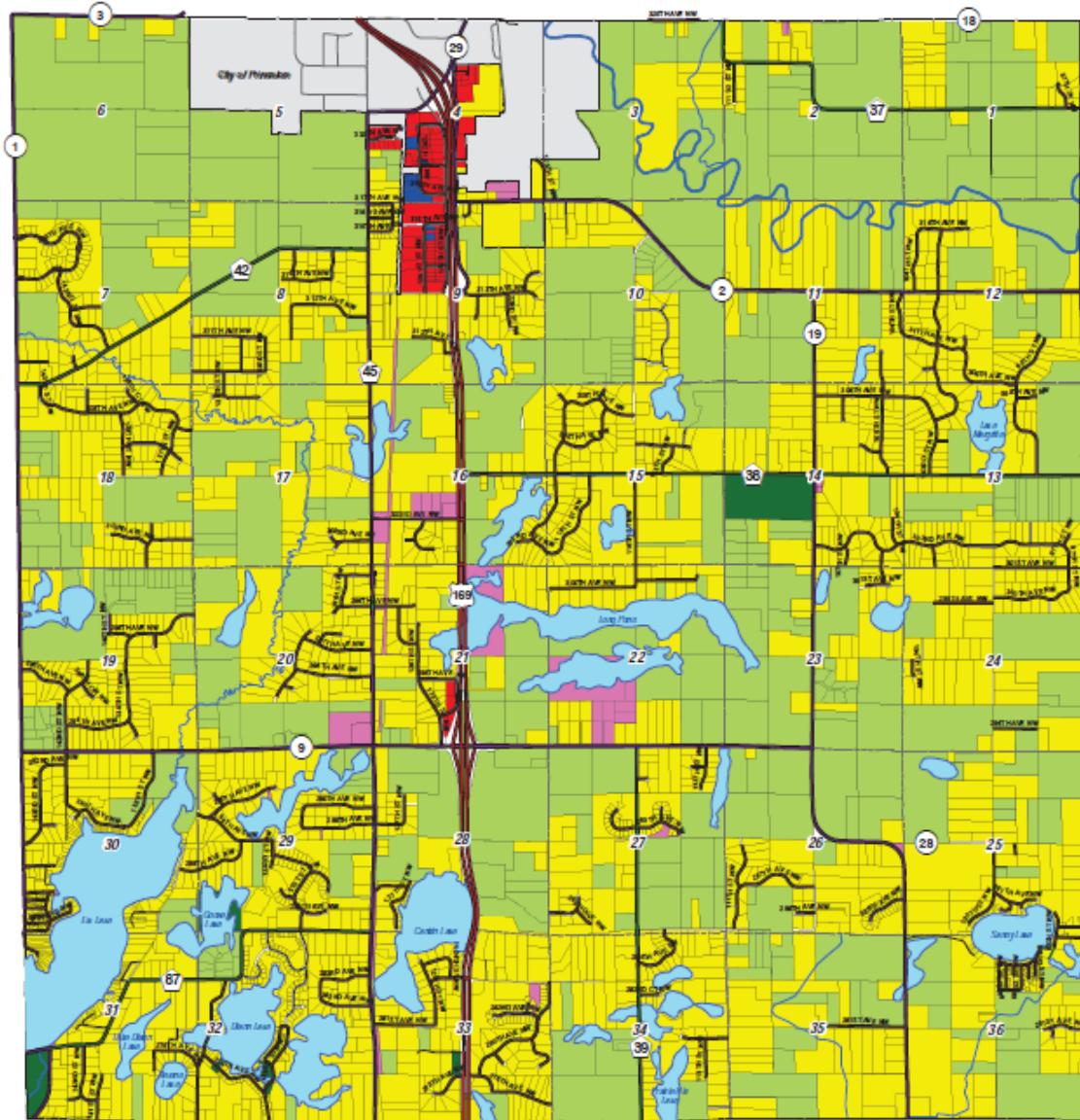
⁶¹ *Id.* at 31.

⁶² *Id.*

⁶³ *Id.* at 10

⁶⁴ *Id.* at 15.

⁶⁵ *Id.*



45. The Township has had a Comprehensive Plan since 2014, through which it seeks to address growth and development, including land use planning.⁶⁶

46. In 2022, authority for planning and zoning enforcement transferred to the Township from Sherburne County pursuant to an agreement between the two governmental entities, allowing the Township to administer its own zoning and subdivision ordinances.⁶⁷

47. In anticipation of obtaining that authority, in April 2022, the Township adopted its Zoning Ordinance and Subdivision Ordinance.⁶⁸

⁶⁶ *Id.* at 17.

⁶⁷ Ex. 4 at 17; Test. of Bryan Lawrence.

⁶⁸ Ex. 51, 54.

48. Under Minn. Stat. § 394.33, subd. 1 (2022), the Township's official controls, including its Zoning Ordinance, Comprehensive Plan, and Subdivision Ordinance, must continue to be consistent with Sherburne County's official controls. The Township can adopt more restrictive standards, but at a minimum, its zoning must be at least as restrictive as that adopted by the County.⁶⁹

49. Sherburne County's land use controls are oriented to agricultural and rural land uses.⁷⁰ Development within the Township, however, has trended toward suburban uses, including the development of extensive platted residential subdivisions, and the Township is continuing to develop in that manner.⁷¹ Further, Sherburne County's zoning standards prevent the Township from rezoning lands to commercial or industrial unless the County agrees to the rezoning.⁷² As a result, the Township is currently unable to make investments to attract industrial development and the accompanying tax base, because there is no certainty that Sherburne County will agree to industrial zoning consistent with the Township's plans.⁷³

50. The Township experienced a conflict between its development goals and Sherburne County's zoning standards in 2021. The owner of a mobile home park located on the Township's border with the City approached the Township to seek a zoning change that would have allowed expansion of the park.⁷⁴ The Township approached Sherburne County to request a zoning change, because the County controlled the Township's zoning at that time.⁷⁵ The County did not agree to make the zoning change.⁷⁶ The property owner then sought annexation to the City. The City annexed the property by ordinance under Minn. Stat. § 414.033, subd. 2(3) (2022).⁷⁷

51. The Township's plan for future land use anticipates that the majority of its land will continue to be available for residential development, but it also plans to expand the amount of land zoned for commercial and industrial development.⁷⁸ If the Township incorporates as a city, it will be able to tailor the zoning within the Subject Area to its needs, including by zoning additional land for commercial and industrial uses to promote economic development and greater employment opportunities.⁷⁹

⁶⁹ Ex. 4 at 17, 20; Minn. Stat. § 394.33, subd. 1.

⁷⁰ Ex. 4 at 20.

⁷¹ *Id.* at 15, 20.

⁷² *Id.* at 4-5, 20.

⁷³ *Id.* at 4-5.

⁷⁴ Test. of Jay Swanson.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ See Order Approving Annexation Ordinance, *In the Matter of the Annexation of Certain Real Property to the City of Princeton from Baldwin Township* (MBAU Docket A-8371), OAH 71-0331-37957 (Dec. 3, 2021).

⁷⁸ Ex. 4 at 17.

⁷⁹ *Id.* at 4.

D. The present transportation network and potential transportation issues, including proposed highway development.

52. The Township is served by an extensive transportation network of federal county, and Township roads.⁸⁰

53. U.S. Highway 169 bisects the Township along a north-south axis and provides access to the Twin Cities metro area.⁸¹

54. Within the Township, ten county highways form a minor arterial and collector road network providing access to surrounding communities including the City, and the cities of Zimmerman, Big Lake, Cambridge, and Isanti.⁸²

55. The Township owns and maintains approximately 82.7 miles of roads, of which 80 miles are currently paved.⁸³ The Township has enhanced many of its existing gravel roadways using a process called “triple chip sealing,” which improves their performance.⁸⁴

56. The Township maintains a network of Township collector roads linking its residential subdivisions and providing access to county highways and to U.S. Highway 169.⁸⁵

57. The Township has developed a capital improvement plan providing for reclamation and reconstruction of its streets over the next nine years.⁸⁶ The current plan has not been adopted in its entirety pending the outcome of this proceeding.⁸⁷

58. The Township plans to do major road reconstruction projects on five of its roadways within the next few years.⁸⁸ Road projects generally require a multi-year planning and construction process.⁸⁹

59. Presently, the Township finances road maintenance through a combination of property tax funding and bonded indebtedness.⁹⁰ The Township anticipates that increases in road construction and maintenance costs in the near term will reduce the balance in its Road and Bridge Fund, such that major projects will be financed by issuing bonds beginning in 2025.⁹¹

⁸⁰ *Id.* at 27-29.

⁸¹ Ex. 2 at 21; Ex. 4 at 27; Test. of Shane Nelson.

⁸² Ex. 4 at 27-28.

⁸³ Test. of B. Lawrence; Ex. 1 at 2; Ex. 3 at 16.

⁸⁴ Test. of B. Lawrence.

⁸⁵ Ex. 4 at 27, 29.

⁸⁶ Ex. 3 at 19.

⁸⁷ Test. of B. Lawrence; Ex. 10.

⁸⁸ Test. of B. Lawrence; Test. of S. Nelson.

⁸⁹ Test. of B. Lawrence.

⁹⁰ Ex. 3 at 19; Test. of S. Nelson; Test. of B. Lawrence.

⁹¹ Ex. 3 at 19.

60. If the Township is not incorporated, it estimates that its planned road projects and debt service will require increasing the Township's tax rate and imposing special assessments.⁹² The Township estimates that, without incorporation, its tax rate will increase approximately 26 percent over the next five years.⁹³

E. Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls.

61. The Township is located outside the Twin Cities Metropolitan Area and is not subject to the jurisdiction of the Metropolitan Council.⁹⁴

62. Since 2022, the Township has exercised its own zoning controls. At this time, those controls must be at least as restrictive as those of Sherburne County, pursuant to Minn. Stat. § 394.33 (2022).

63. The Township adopted a Comprehensive Plan in 2014 and adopted its own Zoning, Subdivision, and Building Ordinances in 2022.⁹⁵

64. Since taking over authority for land use controls, and consistent with its ordinances, the Township has administered all zoning and subdivision controls within the Township, including site and building plans, conditional use permits, interim use permits, shoreland and floodplain management, subdivision control, State Building Code enforcement, and subsurface sewage treatment systems regulation.⁹⁶

65. The Township's Zoning Ordinance established zoning districts consistent with the Township's Comprehensive Plan. Those districts are as follows: General Rural District, General Commercial District, General Industrial District, Shoreland Overlay District, Wild and Scenic Overlay District, and Floodplain Overlay District.⁹⁷

66. The Township's land use ordinances require a minimum of 2.5 acres of land for any single-family residential lot, with a minimum of 40,000 square feet of buildable land for structures and a subsurface sewage treatment system.⁹⁸

67. The Township anticipates that its trend toward suburban development will continue, and that the controls adopted will allow that development, while also protecting the natural environment and the public health, safety, and welfare.⁹⁹

⁹² *Id.*

⁹³ Ex. 3 at 26.

⁹⁴ Ex. 4 at 30.

⁹⁵ *Id.* at 4, 30.

⁹⁶ *Id.* at 30.

⁹⁷ *Id.* at 30-31.

⁹⁸ *Id.* at 31.

⁹⁹ *Id.*

68. The Township's current development controls are consistent with its planned uses.¹⁰⁰ Conflicts may arise, however, between the Township's developmental plans and the baseline land use controls required for consistency with Sherburne County's zoning controls under Minn. Stat. § 394.33.¹⁰¹

69. If the Township incorporates as a city, it will be able to engage independently in long-range planning and to control development within the Township.¹⁰²

70. The Township has engaged the services of an engineer, a consultant that issues building permits, a planning firm, and legal counsel to obtain professional expertise in discharging its land use responsibilities.¹⁰³

71. Under Minn. Stat. §§ 462.351-.365 (2022), cities have authority to engage in municipal planning, including through the adoption of a comprehensive plan and zoning and subdivision ordinances. The Township's adoption of a comprehensive plan and ordinances are consistent with the operations of cities under these statutes.

F. The existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services.

72. In 1991, the Township adopted urban town powers under Minn. Stat. § 368.01 (2022). As a result, the Township gained governmental powers and regulatory authority over a variety of land use and public health and safety concerns.¹⁰⁴

73. The Township currently provides a slate of municipal services to its residents and the Township.¹⁰⁵

74. The Township currently either directly provides or contracts for the provision of the following services:¹⁰⁶

- municipal sanitary sewer service to the Frontier Trails subdivision;
- fire protection;
- storm water management;
- street maintenance.
- parks and recreational services;
- administrative services;

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 45.

¹⁰² *Id.* at 5.

¹⁰³ Test. of Joan Heinen.

¹⁰⁴ See Minn. Stat. § 368.01.

¹⁰⁵ Ex. 3 at 8-12; Ex. 4 at 33-34, 38-39; Ex. 5.

¹⁰⁶ Ex. 3 at 8-12; Ex. 4 at 33-34, 38-39; Ex. 5; Test. of B. Lawrence; Test. of J. Heinen.

- planning and zoning enforcement;
- election services;
- building code enforcement;
- assessing services; and
- auditing services.

75. The Township currently employs a number of full-time and part-time personnel in a variety of positions, including the following positions:¹⁰⁷

- Town Clerk/Treasurer;
- Deputy Clerk;
- Administrative Assistant;
- Public Works Supervisor;
- Public Works Maintenance Technician;
- seasonal staff (as needed); and
- Fire Department staff members, including a Fire Chief, Assistant Fire Chief; and a complement of firefighters.

76. The Township's Clerk-Treasurer and a Deputy Clerk provide general administrative and operational services.¹⁰⁸ For example, the Clerk-Treasurer helps prepare the budget, keeps financial records, keeps and maintains Township records, records and preserves meeting minutes, oversees elections, and is the main point of contact for the public.¹⁰⁹

77. The Township maintains a town hall, a fire hall, and a public works facility.¹¹⁰ The Township budgets for routine maintenance, Board of Supervisor activities, publication costs, and legal, assessing, auditing, engineering and other administrative services.¹¹¹

78. The Township contracts for legal, planning, building inspection, engineering, finance, property assessment, wastewater system operations, and information technology services.¹¹² The use of consultants for these services is typical for governmental units the size of the Township.¹¹³

79. The Township does not anticipate that incorporation would create a need to hire additional staff.¹¹⁴ The Township anticipates it will hire additional staff in the future if its growth warrants greater staff support.¹¹⁵

¹⁰⁷ Test. of J. Heinen; Test. of B. Lawrence; Ex. 4 at 33.

¹⁰⁸ Test. of J. Heinen; Ex. 3 at 8.

¹⁰⁹ Test. of J. Heinen; Ex. 3 at 8; Ex. 5 at 2.

¹¹⁰ Ex. 3 at 8.

¹¹¹ *Id.*

¹¹² Ex. 4 at 33.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

80. If the Township incorporates as a city, it anticipates contracting for legal services for criminal prosecution responsibilities, at an estimated cost of \$25,000 annually.¹¹⁶

81. The Sherburne County Sheriff's Office currently provides public safety and policing services for the Township, as well as 911 emergency response services.¹¹⁷ The Sherburne County Sheriff's Office is staffed with 86 sworn officers and employs a total of 308 staff.¹¹⁸ The Sheriff's Office has an extensive roster of vehicles, equipment, and operational capacities, including 40 squad cars, a mobile command center, armored vehicles, and drones.¹¹⁹ Among its services, the Sheriff's Office has criminal investigators, a drug task force, a SWAT team, an underwater dive team, computer forensic and crime lab capabilities, and a dedicated emergency operations center, all of which serve the Township.¹²⁰ If needed, 15 to 20 officers can be on scene for a public safety event in the Township.¹²¹

82. If the Township incorporates as a city, the Sheriff's Office will continue to provide the same level of law enforcement and emergency response support without the need to execute a contract for public safety services.¹²²

83. The Township established its fire department in 2003.¹²³ The Township provides fire and emergency medical services to all properties in the Township and has a contract for its services with neighboring Blue Hill Township.¹²⁴

84. The Township currently employs 33 firefighters, some of whom also work for the City's fire department.¹²⁵ The Township is authorized to have 35 firefighters.¹²⁶

85. The Township's fire station is centrally located within the Township's land and is near to U.S. Highway 169, which is the major roadway bisecting the Township.¹²⁷ The fire station's location provides for speedy access to Township properties.¹²⁸ All calls for service are currently routed through the Sherburne County Sheriff's Office, which is the Public Safety Answering Point (PSAP) for the Township.¹²⁹

86. The Township has a Capital Improvement Plan for the fire department that anticipates the purchase of a new water tender and a new pumper truck between 2027

¹¹⁶ Ex. 3 at 25; Test. of B. Lawrence.

¹¹⁷ Test. of Sheriff Joel Brott.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ Test. of Fire Chief Scott Case.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*; Ex. 3 at 10.

¹²⁷ Test. of S. Case.

¹²⁸ *Id.*

¹²⁹ *Id.*

and 2029.¹³⁰ The Township estimates that together these vehicles will cost approximately \$1,350,000.¹³¹

87. Due to concerns that the fire department is outgrowing its current space, the Township purchased 30 acres of land for a future administrative and fire hall building.¹³² While the Township does not have a firm cost estimate for the building currently, the cost is expected to fall in the range of \$7 million to \$9 million.¹³³

88. Since 2016, the Township has maintained and operated a community sewage treatment system (CSTS) serving the Frontier Trails subdivision via a subordinate service district, which provides sanitary sewer services to the residents of this subdivision.¹³⁴ Currently, the Township's sewer utility fund runs at a deficit because rates have not kept pace with expenses.¹³⁵ The Township will be required to increase rates for users of the Frontier Trails system whether it incorporates or not.¹³⁶ Five other subdivisions receive sanitary sewer services through a CSTS operated by a homeowner's association.¹³⁷ The Township is able to create additional subordinate service districts if needed to operate failing systems.¹³⁸

89. Other than the six subdivisions, most properties in the Township utilize individual septic systems, or Subsurface Sewage Treatment Systems (SSTS).¹³⁹ The Township regulates existing and new septic systems.¹⁴⁰ Most of the properties in the Township obtain drinking water from private wells.¹⁴¹ These wells are regulated by the Minnesota Department of Natural Resources and the Minnesota Department of Health.¹⁴²

90. The present pattern of development and build-out of Township property, along with natural features, such as wetlands and floodplains, are barriers to the deployment of centralized municipal sewer and water systems to serve the Township.¹⁴³

91. The Township maintains two public parks with recreational opportunities, including beaches, boat launches, and rain gardens.¹⁴⁴

¹³⁰ *Id.*; Ex. 3 at 10.

¹³¹ Ex. 3 at 10.

¹³² Ex. 4 at 34; Test. of S. Case.

¹³³ Test. of S Case.

¹³⁴ Ex. 1 at 7; Ex. 4 at 34; Test. of J. Swanson; Test. of B. Lawrence.

¹³⁵ Ex. 3 at 12.

¹³⁶ *Id.*

¹³⁷ Ex. 1 at 7.

¹³⁸ Ex. 3 at 12.

¹³⁹ Ex. 1 at 7.

¹⁴⁰ Ex. 4 at 35.

¹⁴¹ Ex. 1 at 7.

¹⁴² *Id.*

¹⁴³ *Id.* at 8, 10-11; Ex. 4 at 14.

¹⁴⁴ Ex. 4 at 34; Test. of B. Lawrence.

92. The Township maintains its local streets and their connections with the minor arterials and collectors overseen by Sherburne County.¹⁴⁵

93. The Township plans for street maintenance and park maintenance and improvement on an as-needed basis.¹⁴⁶

94. The Township obtains some funds relating its parks, such as funding for trails, from the Minnesota Department of Natural Resources.¹⁴⁷

95. With the exception of U.S. Highway 169, all other roadways are within the jurisdiction of the Township or Sherburne County.¹⁴⁸ The Township maintains 82.7 miles of roads.¹⁴⁹

96. The Township engages in annual capital improvement planning for an active street reconstruction and pavement management program designed to maintain its roadways.¹⁵⁰ As noted above, the Township plans for major road construction work, which is generally financed through property tax funds and bonds.¹⁵¹ The capital improvement plan calls for \$2.5 million in annual street construction projects over the next eight years, which will need to be completed whether or not the Township incorporates.¹⁵²

97. If the Township incorporates as a city, it will become eligible for Municipal State Aid (MSA) funding for streets. MSA funding is governed by Minn. Stat. § 162.09 (2022), and is available to Minnesota cities with a population of 5,000 or more residents.¹⁵³ MSA funds are calculated using two factors: (1) a population allocation, based on the assessment that larger communities need greater funding; and (2) a “needs” allocation, which is based on the cost to rehabilitate, reconstruct, or build MSA qualified roads.¹⁵⁴ The formula for MSA funding considers a city’s needs based on the cost of constructing and maintaining the MSA street system for 25 years.¹⁵⁵

98. The MSA funding population allocation for the Township, based on its population of 7,043 and a rate of \$26.09 per person, is estimated to be \$183,752.¹⁵⁶ Based on the miles and types of roadways within the Township, the Township estimates its need based MSA funding allocation will be \$353,195.¹⁵⁷

¹⁴⁵ Ex. 4 at 27; Test. of S. Nelson; Test. of B. Lawrence; Test. of J. Swanson.

¹⁴⁶ Test. of B. Lawrence; Ex. 3 at 10.

¹⁴⁷ Test. of B. Lawrence.

¹⁴⁸ Ex. 3 at 10.

¹⁴⁹ *Id.*

¹⁵⁰ Test. of B. Lawrence; Test. of S. Nelson; Ex. 3 at 10.

¹⁵¹ Ex. 3 at 19. Test. of S. Nelson; Test. of B. Lawrence.

¹⁵² Ex. 3 at 10.

¹⁵³ *Id.* at 15-16; Test. of S. Nelson.

¹⁵⁴ Ex. 1 at 1-2.

¹⁵⁵ Minn. Stat. § 162.13, subd. 2 (2022).

¹⁵⁶ Ex. 1 at 1-2.

¹⁵⁷ *Id.* at 3-5.

99. In all, if it incorporates as a city, the Township estimates that it could receive MSA funds in the amount of \$536,947 annually based its present population and road system if it incorporates as a city.¹⁵⁸ Approximately \$134,237 will become available for maintenance of existing roads and the remaining allocation can be used for construction or reconstruction of MSA-eligible routes.¹⁵⁹

100. Over a ten-year period, the Township estimates it will receive approximately \$4 million in MSA funding if it incorporates as a city.¹⁶⁰ This funding source is not available if the Township retains its current form.¹⁶¹

101. If it incorporates as a city, the Township will gain the authority to use tax increment financing (TIF) to promote economic development and to help bring industrial development to the community.¹⁶² As a township, the Township is unable to use this tool without special legislation or the creation of a TIF district by Sherburne County, which would then control the use of TIF funding.¹⁶³ Currently there are no TIF districts within the Township.¹⁶⁴

102. The Township is currently providing a level of services consistent with the operations of a small city in Minnesota.¹⁶⁵ It is difficult for the Township to plan, finance, and deliver a level of services consistent with the Township's suburbanization while retaining a township form of government, because of its uncertainty regarding tax revenues, the unavailability of MSA funding, and the lack of independent TIF authority.¹⁶⁶ Incorporation will facilitate economic and efficient delivery of the Township's services.¹⁶⁷

103. The record reflects that incorporation will not change the quality, quantity, or scope of any of the services currently provided by the Township to its residents.

G. Any existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.

104. The Township primarily manages stormwater using open ditches and roadway culverts.¹⁶⁸ Stormwater basins provide water quality treatment, rate control, and flood protection, before water is discharged to the natural drainage system.¹⁶⁹ Baldwin Township's Subdivision Ordinance regulates stormwater management and erosion

¹⁵⁸ *Id.* at 5.

¹⁵⁹ Ex. 3 at 15. The remaining amount would be held in an account for the benefit of a city, where the funding accumulates from year to year until the city is ready to undertake qualified construction projects. *Id.* at 16. Cities may also borrow against future allocations to complete street projects more expeditiously. *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.* at 31.

¹⁶³ *Id.* at 32.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 33.

¹⁶⁶ Ex. 4 at 38.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 12; *see also* Ex. 1 at 7.

¹⁶⁹ Ex. 1 at 7; Ex. 4 at 12.

control.¹⁷⁰ All new developments are required to control surface water or stormwater runoff to the same or a greater degree than the conditions that existed predevelopment.¹⁷¹

105. The Township regulates septic system permitting, inspection and monitoring.¹⁷² The Township's land use ordinances require a minimum of 2.5 acres of land for any single-family residential lot, with a minimum of 40,000 square feet of buildable land for structures and an SSTS.¹⁷³ In addition, a Certificate of Compliance is required for an existing SSTS any time a building permit is issued for a property or if there is a property sale.¹⁷⁴

106. Currently, six subdivisions within the Township are served by a CSTS.¹⁷⁵ Five of these systems are privately operated by homeowners' associations, while the sixth is the Frontier Trails system operated by the Township.¹⁷⁶

107. The Township received a petition for wastewater services and for the creation of a subordinate service district related to the Frontier Trails subdivision in 2014.¹⁷⁷ The Township established the subordinate service district in 2015, and began operating the Frontier Trails CSTS in 2016.¹⁷⁸ The system operates under a permit issued by the Minnesota Pollution Control Agency and the Township has a license to operate the system.¹⁷⁹ The Township anticipates that it will continue operating this system in the foreseeable future.¹⁸⁰

108. If any of the other existing CSTS systems experience operational failure, the Township can create another subordinate service district to address the issue.¹⁸¹ One subdivision, Nordwall Estates, may require intervention from the Township in the future.¹⁸² Under its zoning and subdivision ordinances, the Township no longer allows for the creation of new CSTS infrastructure, limiting the number of systems that the Township may need to address in the future.¹⁸³

109. As noted above, the Township has established several environmental protection zoning districts related to shoreland management, public waters, and floodplain management.¹⁸⁴

¹⁷⁰ Ex. 4 at 12, 35.

¹⁷¹ *Id.* at 12.

¹⁷² *Id.* at 35.

¹⁷³ *Id.* at 31.

¹⁷⁴ *Id.* at 31, 35.

¹⁷⁵ Ex. 1 at 7.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Test. of J. Swanson; Test. of B. Lawrence.

¹⁸⁰ Ex. 1 at 7.

¹⁸¹ *Id.*

¹⁸² Test. of S. Nelson.

¹⁸³ Ex. 4 at 34.

¹⁸⁴ *Id.* at 31.

110. The City has expressed concerns regarding the vulnerability of its Drinking Water Supply Management Area (DWSMA). The City's DWSMA extends into the northern part of the Township.¹⁸⁵ Two of its primary public drinking water wells are located near the Township.¹⁸⁶ The City notes that "[i]f [the] Township is allowed to incorporate and provide for smaller lot rural subdivisions without establishing a municipal wastewater collection and treatment system, there is the potential for the [City's] drinking water to be adversely impacted."¹⁸⁷

111. The City's concern is based on events that may or may not occur if the Township incorporates. On the record presented here, there is no basis to find that the Township's incorporation will negatively impact the City's drinking water supply.

112. The record reflects that the Township has taken steps to manage environmental hazards and risks. There is no evidence that there is a known environmental problem that would bear on whether the Township should be incorporated.

H. The fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues.

113. The Township is the ninth largest township in Minnesota when measured by tax base.¹⁸⁸ The Township's financial revenues and the diversity of its revenue sources are more similar to incorporated cities than other townships in Minnesota.¹⁸⁹

114. The Township's budget is funded by a levy enacted by residents who attend an annual meeting.¹⁹⁰ Generally, between 20 and 40 electors, who are Township residents at least 18 years old, gather to vote for Township officers and the levy.¹⁹¹ The electors may approve the requested budget or may approve a higher or lower levy.¹⁹² This taxing mechanism creates uncertainty about the amount of funding the Township will have available to fund planned projects.¹⁹³

115. The Township's budget for 2023 was \$1.3 million.¹⁹⁴ The Township's 2024 budget is \$1.6 million, while its budget for 2025 is projected to be \$1.7 million.¹⁹⁵ When a

¹⁸⁵ Test. of Jennifer Edison.

¹⁸⁶ See City of Princeton Evidentiary Testimony Opposing Baldwin Township Incorporation; Exs. 102-103.

¹⁸⁷ City of Princeton Evidentiary Testimony Opposing Baldwin Township Incorporation at 2.

¹⁸⁸ Ex. 3 at 12.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 9; Test. of B. Lawrence.

¹⁹¹ Test. of B. Lawrence; Ex. 1 at 21.

¹⁹² *Id.*

¹⁹³ *Id.*; Ex. 3 at 9.

¹⁹⁴ Test. of J. Heinen.

¹⁹⁵ *Id.*

community's budget reaches that size, it can be difficult to fully address budget issues at a short annual meeting, and to ensure consistent funding for governmental operations and planned expenses.¹⁹⁶

116. Property tax rates are determined by spreading the levy over the property value in the Township, which is the Township's net tax capacity. The Township's tax rates have been declining since 2018, due to growth in the Township's tax base.¹⁹⁷ The Township will continue to need nearly the same level of services whether or not it incorporates, but the Township anticipates having a lower tax rate if it incorporates than it would otherwise, due to the infusion of state funding.¹⁹⁸ Without incorporation, and with anticipated spending on roads and other infrastructure, the Township could experience an increase in its tax rate of 26 percent.¹⁹⁹

117. Currently, the Township's tax rate is lower than that of all of its surrounding cities, and lower than all but one of its surrounding townships.²⁰⁰

118. In 2017, the Township issued a Certificate of Indebtedness in the amount of \$2,235,000 to finance street improvement projects and the SSTs for the Frontier Trails subdivision.²⁰¹ The Township's remaining indebtedness amounts to \$720,000.²⁰² The Township will pay the balance in full by 2027, but the debt service is a fixed cost.²⁰³ If electors do not fully fund the levy each year, the Township is still required to make debt payments.²⁰⁴ If a portion of the Township's tax base is annexed by another community, the amount of taxes assessed on the remaining properties will increase in order to adequately fund the Township's debt payments.²⁰⁵

119. The Township is not currently rated by a major credit rating agency.²⁰⁶ The Township intends to seek a rating in connection with its issuance of bonds for 2025 street projects.²⁰⁷ A community's tax base is a key element in an assessment of creditworthiness and the ability to fulfill its financial obligations.²⁰⁸ Seventy-nine percent of the Township's revenue comes from its property tax levy, making solidification of its tax base a substantial concern.²⁰⁹ If the Township's tax base erodes, the Township could receive a lower bond rating, resulting in higher interest costs and the potential for increased taxes on the remaining properties.²¹⁰

¹⁹⁶ Ex. 3 at 9.

¹⁹⁷ *Id.* at 24.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.* at 26.

²⁰⁰ *Id.*

²⁰¹ *Id.* at 22.

²⁰² *Id.* at 27.

²⁰³ *Id.* at 22, 27.

²⁰⁴ Test. of Todd Hagen.

²⁰⁵ Ex. 3 at 22.

²⁰⁶ *Id.* at 27.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.* at 27-28.

120. The Township has a general fund as well as a variety of special revenue, capital project, debt, and proprietary funds.²¹¹ The Township is in a strong financial position. In 2025 the Township anticipates having 146 percent of the next year's operating budget in reserve, declining to 130 percent by 2029.²¹²

121. The Township issues general obligation debt, oversees debt administration, and engages in budgeting and long-range financial planning.²¹³ The Township prepares a consolidated annual financial report and has audited financial statements.²¹⁴

122. If the Township incorporates, it will be eligible for \$536,947 in MSA funding, as discussed above.²¹⁵

123. After incorporation, the Township may also become eligible for Local Government Aid (LGA).²¹⁶ LGA is a municipal funding mechanism through which the State of Minnesota provides general purpose aid to Minnesota cities through a budget appropriation based on a statutory formula.²¹⁷

124. Following incorporation, the Township will need to obtain special legislation to establish an "existing" LGA amount as a basis for future funding calculations.²¹⁸ If it does so, it will be eligible for LGA in the amount of \$210,000.²¹⁹ The Township would designate one-half of this LGA funding to purchase a new fire truck and the other one-half for the General Fund to cover governmental operating expenses.²²⁰

125. If it incorporates, the Township anticipates its expenditures will increase by approximately \$25,000 to fund a contract for legal services for criminal prosecution.²²¹ The Township does not anticipate any other additional expenditures for governmental services if it incorporates.²²²

126. Had the Township been a city in 2023, it would have received an additional \$300,000 in public safety state aid. This funding was not available to townships.²²³

127. If incorporated as a city, the Township could also utilize TIF funding to encourage economic development.²²⁴

²¹¹ *Id.* at 19.

²¹² *Id.*; Test. of T. Hagen.

²¹³ Test. of T. Hagen.

²¹⁴ *Id.*; Ex. 3 at 8, 14.

²¹⁵ Ex. 1 at 5.

²¹⁶ Ex. 3 at 14-15.

²¹⁷ See Minn. Stat. §§ 477A.011-.40 (2022).

²¹⁸ Ex. 3 at 15.

²¹⁹ *Id.*; Test. of T. Hagen.

²²⁰ Ex. 3 at 15.

²²¹ *Id.* at 25; Test. of B. Lawrence.

²²² Test. of T. Hagen; Test. of B. Lawrence.

²²³ Test. of S. Case.

²²⁴ *Id.* at 31-32.

128. Incorporation will stabilize the Township's borders and preserve its tax base, while allowing the new city to assess taxes approved by an elected city council, creating greater stability in the Township's finances.²²⁵ It will also have access to additional funding sources, as described above, offsetting anticipated costs for road maintenance and capital improvements for the fire department.²²⁶

I. The relationship and effect of the proposed action on affected and adjacent school districts and communities.

129. The Township is served by two different school districts.²²⁷ Nearly all of the Township's properties are in the Princeton Public School District (ISD 477), while four properties on the Township's southern boundary are in the Elk River-Otsego-Rogers-Zimmerman School District (ISD 728).²²⁸

130. Incorporation is not expected to have an immediate impact on the tax capacity, tax rate, or credit ratings of Sherburne County or the two school districts that serve the Township. However, additional growth in the Township's tax base as a city may result in a marginal benefit to Sherburne County and the school districts over time.²²⁹

131. The Townships of Greenbush, Orrock, Princeton, Blue Hill, Livonia, and Spencer Brook approved resolutions supporting the incorporation of the Township.²³⁰ These resolutions suggest that these communities will not be adversely impacted by incorporation. No other townships that abut the Township or touch its corners took action either in favor of or opposed to the Township's Petition, suggesting a lack of impact on these communities if the Township incorporates. This record contains no basis to conclude that any of the surrounding Townships will be negatively impacted by the Township's incorporation.

132. The City, which borders the Township to the north, opposes incorporation of the Township. The City notes that incorporation of the Township will halt its own planned growth into the area of the Township and impact the return on its investment in its water and sewer infrastructure, leaving its residents to bear the full cost of its system.²³¹

133. The City has few remaining properties within its boundaries that can still be developed.²³² If the Township incorporates, its border with the City will be solidified and the City will be unable to use some types of boundary adjustment proceedings to annex Township lands. Instead, if land were to change hands between the City and the

²²⁵ *Id.* at 33.

²²⁶ Ex. 1 at 5; Ex. 3 at 15; Test. of T. Hagen; Test. of S. Case; Test. of B. Lawrence.

²²⁷ Ex. 4 at 36.

²²⁸ *Id.*

²²⁹ Ex. 3 at 28-29.

²³⁰ Ex. 14.

²³¹ City of Princeton Evidentiary Testimony Opposing Baldwin Township Incorporation at 4; *see also* Exs. 109-110 (depicting the City's planned future sewer and water service extending into the Township).

²³² Test. of J. Edison.

Township following the Township's incorporation, such a transfer would be initiated as a concurrent detachment and annexation proceeding.²³³

134. The City developed its Comprehensive Sanitary Sewer System Plan as a planning document.²³⁴ The City considers the plan as a “hypothetical” scenario and only plans to offer water and sewer expansion if requested by a developer or landowner.²³⁵ According to the City's Engineer, it would not be feasible or cost effective to extend municipal water and sewer services to developments made up of 2.5 acre lots.²³⁶ In order to service properties within the Township's current area, larger lots would need to be subdivided.²³⁷ There are barriers to extension of municipal water and sewer in the Township based on existing patterns of development and natural features, such as wetlands, floodplains, and the Rum River.²³⁸

J. Whether delivery of services to the subject area can be adequately and economically delivered by the existing government.

135. As noted above, the Township currently provides a slate of governmental services to its residents, either through its own employees or by using outside contractors to obtain services.²³⁹

136. The level of services currently provided is similar to those offered by small cities in Minnesota.²⁴⁰

137. Planning, financing, and delivering the current level of services within the Township's existing governmental structure has become complex and uncertain, particularly in connection with ensuring adequate financing the Township's current expenditures and anticipated investments.²⁴¹

138. The Township's existing structure does not allow it to obtain MSA or LGA funding, or to utilize TIF to encourage economic development. As noted above, these funding sources and tools would be available if the Township incorporates.²⁴²

139. The Township currently relies on the participation of a small number of residents to set the levy for the entire community at its annual meeting, with some possibility that the electors will not approve a sufficient levy to support existing operations and infrastructure improvements.²⁴³ Incorporation would centralize decision-making

²³³ See Minn. Stat. § 414.061 (2022).

²³⁴ Test. of J. Edison; See Ex. 28.

²³⁵ Test. of J. Edison.

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ Ex. 1 at 8.

²³⁹ See Section F above.

²⁴⁰ Ex. 3 at 4, 9, 12.

²⁴¹ Ex. 4 at 38.

²⁴² See Sections F and H above.

²⁴³ Ex. 1 at 22.

authority in an elected city council, providing some assurance as to the availability and consistency of funding for governmental operations and expenditures.²⁴⁴

140. Incorporation would solidify the Township's tax base, which is the source of a substantial portion of its revenue for operating expenses.²⁴⁵ Ensuring a consistent tax base is also important for obtaining a favorable credit rating for issuance of debt, resulting in lower interest rates and project costs for planned community investments.²⁴⁶ Incorporation would prevent erosion of the Township's lands and tax base by annexation to other communities. Without incorporation, it is possible that the City could seek to annex portions of the Township's lands, depriving the Township of those residents and tax base. For example, in 2021, the City annexed a portion of the Township containing a mobile home park that had around 250 residents.²⁴⁷

K. An analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment.

141. As noted above, incorporation will meet many of the Township's needs as it continues its pattern of suburban development and embarks on planned investments in infrastructure for roads and its fire department. Also as noted above, the City is currently providing services consistent with those of a small city in Minnesota. Incorporation will make available additional funding and economic development tools, as well as enhance the Township's ability to obtain consistent funding through a centralized, representative governmental structure. The Township has considered incorporation as a possibility for many years and seeks to incorporate now so that its governmental structure will be a better match for its operations, obligations, and goals.²⁴⁸

142. The City did not file a petition for annexation or participate as a party in this proceeding. Rather, the City requests that incorporation be denied and that this order "grant" annexation of lands within the Township to the City.²⁴⁹

143. The area that the City requests be annexed to it covers approximately half of the Township and is depicted on the map below.²⁵⁰

²⁴⁴ Ex. 1 at 1, 21-22; Ex. 3 at 9.

²⁴⁵ Ex. 3 at 26-27.

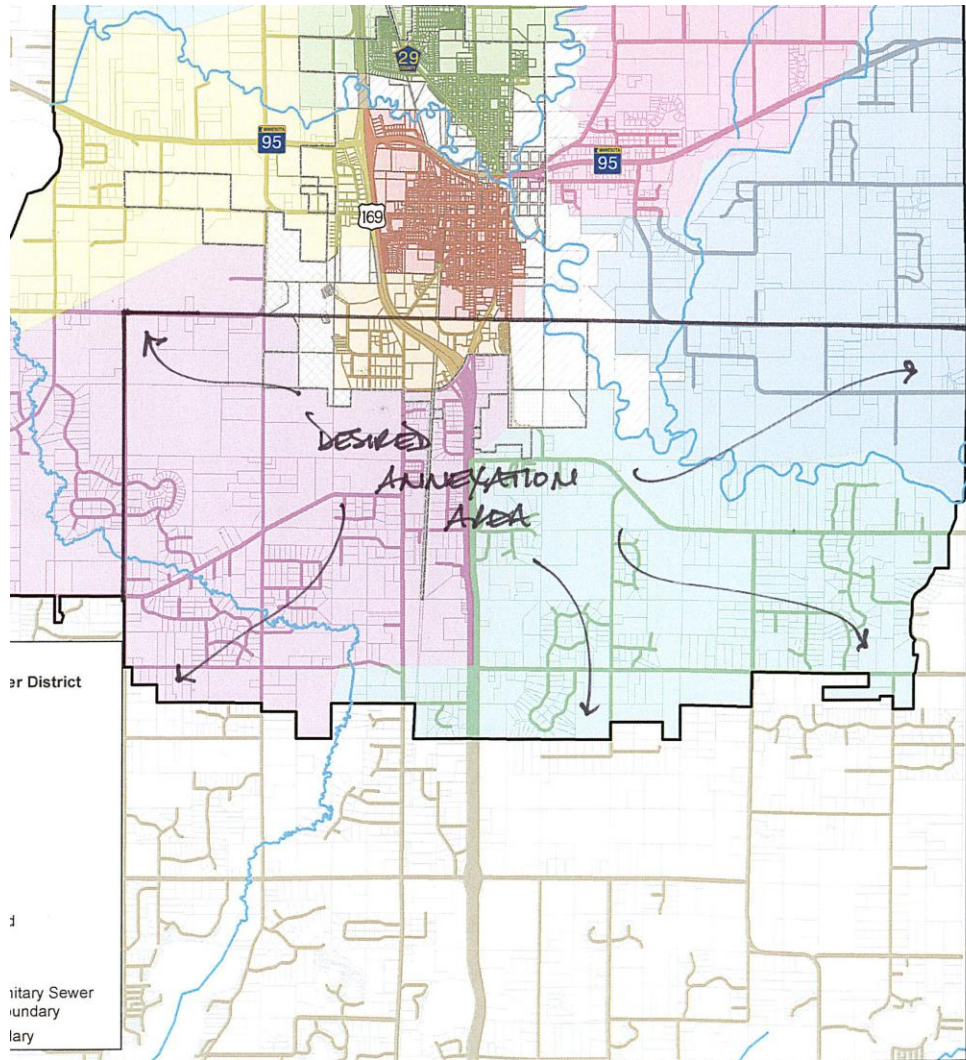
²⁴⁶ *Id.* at 22, 27.

²⁴⁷ *Id.* at 33; Test. of J. Swanson.

²⁴⁸ Test. of J. Swanson; Test. of B. Lawrence.

²⁴⁹ Test. of Michelle McPherson; Ex. 101. The City's request is discussed in greater detail in the accompanying Memorandum.

²⁵⁰ Ex. 101. The City did not provide a legal description specifically identifying the property in its desired annexation area.



144. The portion of the Township that the City seeks to annex is included in the City's planned southeast and south sewer districts under its Comprehensive Sanitary Sewer System Plan.²⁵¹ These areas are identified in Phases 3 and 4 of the plan,²⁵² for which the buildout cost is projected at \$52.6 million in Phase 3; and \$52.2 million in Phase 4.²⁵³ These figures are based on estimated 2019 construction costs and do not factor in streets, easements, and other miscellaneous costs.²⁵⁴

145. According to the City's Engineer, the City considers the Comprehensive Sanitary Sewer System Plan to be a hypothetical document to be used as an aid for planning purposes.²⁵⁵ The City expands its services upon request by a property owner or developer.²⁵⁶ The City does not have a concrete, present plan to extend this service into

²⁵¹ Ex. 28 at 25-26, Figure (Fig.) 6-1.

²⁵² *Id.* at Fig. 7-1.

²⁵³ *Id.* at 29.

²⁵⁴ *Id.*

²⁵⁵ Test. of J. Edison.

²⁵⁶ *Id.*

its desired annexation area.²⁵⁷ For service to be extended, existing lots would need to be subdivided, and providing service to other developments with 2.5 acre lots is not financially feasible.²⁵⁸

146. At this time, with the exception of those subdivisions served by CSTS infrastructure operated by homeowner's associations and the Township, properties in the Township have individual SSTs regulated by the Township.²⁵⁹ There is no evidence that the Township's regulatory oversight of these systems is inadequate or that there are risks to the community based on septic system failures that would necessitate the extension of municipal water and sewer services.

147. The City provides its residents with a full range of municipal services, such as police and fire departments, public works, planning and zoning, budgeting and administrative services, and elections.²⁶⁰ The type and scope of services that the City provides is generally consistent with the services the Township provides to its residents, and would continue to provide if it incorporates.

148. Calls for emergency services to the City's fire department are routed through dispatch in Mille Lacs County, whereas the Township's calls are paged through Sherburne County's PSAP.²⁶¹ Any Township properties annexed into the City would be subject to emergency call routing to Mille Lacs County first, even though they are located in Sherburne County, which results in a one-to-two-minute delay in answering those calls.²⁶²

149. The City and Township have agreed to annexation to the City of 31.39 acres of land within the Township pursuant to an orderly annexation agreement under Minn. Stat. § 414.0325 (2022). Annexation of this property is approved by issuance of an Order Approving Annexation on July 16, 2024.²⁶³ As a result, this property is excepted from the incorporation area.

L. The degree of contiguity of the boundaries of the subject area and adjacent units of local government.

150. Most of the Township's boundaries have been stable since it was reorganized in 1877.²⁶⁴

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ Ex. 1 at 7; Ex. 4 at 35.

²⁶⁰ Test. of M. McPherson; Test. of Shawna Jenkins Tadych; Test. of Stacy Marquardt; Test. of Thom Walker; Test. of Bob Gerold; Test. of J. Edison.

²⁶¹ Test. of S. Case.

²⁶² *Id.*

²⁶³ *In the Matter of the Orderly Annexation of Certain Real Property to the City of Princeton from Baldwin Township (MBAU Docket OA-1894-1)*, OAH Docket No. 71-0331-40140.

²⁶⁴ Ex. 4 at 4.

151. The Township's northern boundary with the City, however, has changed over the years as a result of piecemeal annexations.²⁶⁵

152. There is no boundary adjustment possible that will improve the contiguity of the current boundaries between the Township and its neighbors.²⁶⁶

153. Pursuant to the City and Township's Orderly Annexation Agreement, a 31.39 acre property in the Township is annexed to the City by issuance of a separate Order Approving Annexation, which is issued simultaneously with this Order.²⁶⁷

154. Incorporation will serve to maintain and preserve the contiguity of the Township's current boundaries.²⁶⁸

M. An analysis of the applicability of the State Building Code.

155. Township Ordinance 920 adopted the State Building Code by reference in 2022.²⁶⁹ The Township contracts with a consultant to act as a Building Official to administer the State Building Code throughout the entire community.²⁷⁰ As a city, the Township will be required to continue enforcing the State Building Code.²⁷¹ Accordingly, incorporation will have no impact on its applicability to properties within the Township.²⁷²

IV. Summary of Public Comments

156. This tribunal received over 200 comments from members of the public at the public hearing and through written submissions. Due to the number of comments received, this Order does not address every comment individually. Instead, this Order provides a summary and discusses representative comments on the issues raised by commenters related to the Township's Petition and the City's request for annexation.

157. Some commenters support the Township's Petition. James and Beth Carlson write that they and their fellow Township residents are invested in their way of life. They see incorporation as a city as a way to preserve the nature of the community and promote self-governance.²⁷³ Brad Chambers contends that incorporation will "assure [the Township's] residents that they can continue to live the lifestyle that they love." He further notes the need for the community to retain its businesses and tax base to be successful.²⁷⁴ Jeremy Evans explained that discussions about incorporation also

²⁶⁵ *Id.* at 40.

²⁶⁶ *Id.*

²⁶⁷ ORDER APPROVING ANNEXATION, *In the Matter of the Orderly Annexation of Certain Real Property to the City of Princeton from Baldwin Township (MBAU Docket OA-1894-1)*, OAH Docket No. 71-0331-40140 (July 16, 2024).

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ Minn. Stat. § 326B.121 (2022).

²⁷² *Id.*; Ex. 55.

²⁷³ Comment of James and Beth Carlson (Mar. 22, 2024).

²⁷⁴ Comment of Brad Chambers (Mar. 20, 2024).

occurred in 2012. He believes that the Township should have pursued incorporation then, and he supports the effort to incorporate now.²⁷⁵ Jerry and Cheryl Fleck state: “Please consider incorporation to city status, which we’re sure is the popular sentiment of all our residents.”²⁷⁶ Nancy Gustafson writes: “I think Baldwin Township should incorporate and reap the benefits of being a city.”²⁷⁷ Rodney and Nicole Haataja are concerned about the potential for annexation of portions of the Township to the City and possible increases in taxes for annexed properties, as well as the erosion of the Township’s tax base. They state: “We don’t see a winning situation for the citizens of Baldwin Township other than becoming a city which brings with it state aid and a stop to the threats of annexation by the city of Princeton.”²⁷⁸ Similarly, Scott Bruce supports incorporation because it will protect the Township’s borders from annexation by the City or other communities.²⁷⁹ Jeff Iisakka is “100% in favor of changing Baldwin Township’s status from Township to City.”²⁸⁰ Joshua and Maria Krenz believe that the Township has evolved and that incorporation will ensure that the Township has the necessary government structure to meet the needs of the community.²⁸¹ David Pack notes that he has advocated for incorporation of the Township for the last ten years.²⁸² Randy Atwood maintains that incorporation has been a hot topic in the community for years and that becoming a city would create stability for the community.²⁸³

158. Other residents expressed support for the Township’s incorporation petition, even though they would prefer not to incorporate, because they see it as a means to resist annexation of Township lands by the City. Resident Pat Brown commented: “I would have liked to just stay Baldwin Township, but to secure our borders[,] let’s not allow Princeton to chomp us up like a Pac-man game.”²⁸⁴ Shelly Botzek states: “I ask that you consider keeping Baldwin Township as it is, however if the choice is [i]ncorporation or [t]he City of Princeton [a]nnexing[,] [p]lease allow the [i]ncorporation for Baldwin.”²⁸⁵ Commenter Dan Engblom writes that he supports incorporation only if it is the only option available to avoid annexation by the City, and he strongly prefers for the Township to remain a township.²⁸⁶ Jeremy Alan Houle notes: “I support incorporation before annexation.”²⁸⁷ John Scharber would prefer for the Township to keep its current form, but states, “if I have to choose, I would rather Baldwin incorporate rather than Princeton annexing us in.”²⁸⁸ Michelle Vaughn indicates, “we would prefer for nothing to happen

²⁷⁵ Comment of Jeremy Evans (Mar. 21, 2024).

²⁷⁶ Comment of Jerry and Cheryl Fleck (Mar. 21, 2024).

²⁷⁷ Comment of Nancy Gustafson (Mar. 15, 2024).

²⁷⁸ Comment of Rodney and Nicole Haataja (Mar. 17, 2024).

²⁷⁹ Comment of Scott Bruce (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

²⁸⁰ Comment of Jeff Iisakka (Mar. 15, 2024).

²⁸¹ Comment of Joshua and Maria Krenz (Mar. 6, 2024).

²⁸² Comment of David Pack (Mar. 22, 2024).

²⁸³ Comment of Randy Atwood (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

²⁸⁴ Comment of Pat Brown (Mar 7, 2024).

²⁸⁵ Comment of Shelly Botzek (Mar. 18, 2024).

²⁸⁶ Comment of Dan Engblom (Mar. 19, 2024).

²⁸⁷ Comment of Jeremy Alan Houle (Mar. 19, 2024).

²⁸⁸ Comment of John Scharber (Mar. 21, 2024).

either way but would definitely rather become the city of Baldwin as opposed to annexation.”²⁸⁹ Melissa West commented: “I’m o.k. with staying a township or incorporate[ng], anything to keep Princeton from the annexation of properties, including mine.”²⁹⁰

159. There were also commenters who did not take a firm position in favor of or against incorporation, or who indicated that they would not oppose it. The Kleingartner family is “okay with Baldwin becoming a city.”²⁹¹ Verna A. Jenson states: “I would not mind if Baldwin Township [i]ncorporated and became the City of Baldwin.”²⁹² Tom and Terri Lorentz and Ron and Amanda Lorentz Nilsen state: “We do not know if our township totally qualifies for city incorporation but we do understand why our board is taking the action to incorporate[.]”²⁹³ William Maki states: “Regarding incorporation as a city or remaining as a township – we are indifferent.”²⁹⁴ Eric and Barbara Chapin commented: “As to the actual matter of incorporation of Baldwin Township, my feelings are undecided.”²⁹⁵

160. Some commenters oppose incorporation. Jerald Arnhalt expressed: “If it was up to me, I would leave everything as it is!!! Period!!!”²⁹⁶ Jeremy Blonigan is concerned about an increase in his taxes and urges: “Please allow us to remain the way it is.”²⁹⁷ Matt Johnson also opposes incorporation. He moved to the Township because he wanted “country living” and he believes that if the Township incorporates residents will have to live by city rules.²⁹⁸ Mr. Johnson expressed the concern that a new city would seek federal funding and be required to set aside land for Section 8 housing.²⁹⁹ Brian Kovar similarly writes: “Baldwin Township should stay a township.”³⁰⁰ Dave Carlson asks that the Petition be denied. He objects to receipt of additional state aid for roads if the Township becomes a city because he prefers for the additional funds to be found elsewhere.³⁰¹ Steve and Susan Burnham believe that they would be adversely affected by both incorporation and annexation and oppose both possibilities.³⁰² Mark Craft does not believe that there is a pressing need for the Township to incorporate. He proposes that the Township continue to work on incorporation as a community project for future consideration.³⁰³

²⁸⁹ Comment of Michelle Vaughn (Mar. 12, 2024).

²⁹⁰ Comment of Melissa West (Mar. 14, 2024).

²⁹¹ Comment of the Kleingartner family (Mar. 16, 2024).

²⁹² Comment of Verna A. Jensen (Mar. 19, 2024).

²⁹³ Comment of Tom and Terri Lorentz and Ron and Amanda Lorentz Nilsen (Mar. 15, 2024).

²⁹⁴ Comment of William Maki (Mar. 19, 2024).

²⁹⁵ Comment of Eric and Barbara Chapin (Mar. 22, 2024).

²⁹⁶ Comment of Jerald Arnhalt (Mar. 19, 2024).

²⁹⁷ Comment of Jeremy Blonigan (Mar. 16, 2024).

²⁹⁸ Comment of Matt Johnson (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

²⁹⁹ *Id.*

³⁰⁰ Comment of Brian Kovar (Mar. 22, 2024).

³⁰¹ Comment of Dave Carlson (Mar. 22, 2024).

³⁰² Comment of Steve and Susan Burnham (Mar. 18, 2024).

³⁰³ Comment of Mark Craft (Mar. 21, 2024).

161. A number of commenters expressed concern about the Town Board's decision to pursue incorporation. Some indicated that they lacked information about the incorporation petition. Others asserted that the issue should have been put before the entire Township for a vote. Jeff and Krista Berry commented: "We honestly feel Baldwin Township has not given enough information or time to fully understand our choices of being Baldwin Township, or Baldwin City, or to be annexed to the City of Princeton."³⁰⁴ Eric and Suzanne Larson similarly state: "We do not want the petition to incorporate to go further. We don't feel that enough planning and information was shared to make a proper decision on this matter."³⁰⁵ Duane and Pam Burbank commented that they oppose incorporation, and believe that the Township's Board should have put the issue to a vote.³⁰⁶ Similarly, Barbara Essig believes that members of the Town Board overstepped their authority by failing to bring their plan for incorporation up for a vote.³⁰⁷ Dr. Liz Kolb indicated that she would expect to be able to vote on community improvements. She believes that a "lack of clear information and community involvement in the primary decision of petitioning for incorporation is unconscionable."³⁰⁸ Stacy and Darrin Marquardt report that discussions of incorporation occurred in the community between 10 to 15 years ago, but they state no discussions or informational meetings have occurred since then. They maintain that the Town Board's filing of the Petition was "underhanded."³⁰⁹ Chad and Kim Young ask that the Petition be denied, "even if it's simply a pause," to allow the Township Board to "be more planful, transparent and forthcoming with its residents and then perhaps resubmit."³¹⁰ Kyle Buffington maintains that a complete plan for incorporation should be developed and presented to Township residents for a vote.³¹¹ Wayne Soens contends that: "Which ever way this goes[,] we have been cheated because of not being able to vote."³¹²

162. Other residents are concerned about possible changes in the nature of their community if the Township incorporates or if some of its land is annexed to the City. Miriam Baer is concerned that lot sizes will be reduced if the Township becomes a city, and she asks whether the community will be required to build low income housing.³¹³ Cheryl Benjamin writes that she and her husband like "country living and will likely sell and move out of the area if it is changed drastically...."³¹⁴ Jeremy Bergmann is worried about the possibility of annexation to the City because he and his wife would be unable to continue raising cattle on their land and would have to move.³¹⁵ Charlie Jones explained that his property is surrounded by farmland on all sides and that this provides "amazing tranquility

³⁰⁴ Comment of Jeff and Krista Berry (Mar. 16, 2024).

³⁰⁵ Comment of Eric and Suzanne Larson (Mar. 19, 2024.).

³⁰⁶ Comment of Duane and Pam Burbank (Mar. 13, 2024).

³⁰⁷ Comment of Barbara Essig (Mar. 18, 2024).

³⁰⁸ Comment of Dr. Liz Kolb, MS, DVM (Mar. 18, 2024).

³⁰⁹ Comment of Stacy and Darrin Marquardt (Mar. 13, 2024).

³¹⁰ Comment of Chad and Kim Young (Mar. 20, 2024).

³¹¹ Comment of Kyle Buffington (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

³¹² Comment of Wayne Soens (Mar. 19, 2024).

³¹³ Comment of Miriam Baer (Mar. 13, 2024).

³¹⁴ Comment of Cheryl Benjamin (Mar. 14, 2024).

³¹⁵ Comment of Jeremy Bergmann (Mar. 21, 2024).

and peacefulness.”³¹⁶ His granddaughter keeps her horse on his property and rides there frequently, and he is concerned that annexation of his property to the City would “devastate our way of living.”³¹⁷

163. Some residents do not believe that annexation of Township property by the City is a real or pressing possibility. Dean McDevitt writes: “I do not believe that Princeton has ever completed a hostile annexation or ever will.”³¹⁸ Kevin McGinty and Kathleen Cooper each referred to concerns that the City would seek to annex portions of the Township as a “scare tactic.”³¹⁹ Torsten and Lacy Wolff note that they “understand the concerns on the annexation, however, if Princeton wants to annex, they could have done this a few years ago.”³²⁰

164. Commenters universally and strongly oppose annexation to the City. Robert and Dana Carlson write: “The proposed annexation by the City of Princeton threatens the very fabric of our community.”³²¹ Amber Luckoff considers annexation to the City “emotionally devastating.” She states: “We would view it as an invasion of our personal space. Our home and property would become contaminated.”³²² Sue Hix and her husband have lived in the Township for 30 years. She enjoys shopping in the City, but she likes returning home where her neighbors are close enough to share a campfire, but not close enough to see in each other’s windows.³²³ George Berning pleads: “Please don’t allow the annexation by the City of Princeton to happen. It doesn’t seem right to change everything we have built and love about our life here.”³²⁴

165. Residents are also opposed to the extension of water and sewer service by the City into portions of the Township. Rene Simon describes her well water as “gloriously delicious,” and notes that she maintains the upkeep of her septic system.³²⁵ Theresa Anderman states that the cost of the City’s planned extension of water and sewer “would bankrupt us.”³²⁶ Andrew Kelly lives in the northeast corner of the Township on the Rum River. He believes that extension of city water and sewer into his area is a “pipe dream.”³²⁷

³¹⁶ Comment of Charlie Jones (Mar. 12, 2024).

³¹⁷ *Id.*

³¹⁸ Comment of Dean McDevitt (Mar. 17, 2024).

³¹⁹ Comment of Kevin McGinty (Mar. 21, 2024); Comment of Kathleen Cooper (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

³²⁰ Comment of Torsten and Lacy Wolff (Mar. 20, 2024).

³²¹ Comment of Robert and Dana Carlson (Mar. 22, 2024).

³²² Comment of Amber Luckoff (Mar. 14, 2024).

³²³ Comment of Sue Hix (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

³²⁴ Comment of George Berning (Mar. 14, 2024).

³²⁵ Comment of Rene Simon (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

³²⁶ Comment of Theresa Anderman (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

³²⁷ Comment of Andrew Kelly (Public Comment Hearing Digital Recording (Mar. 7, 2024) (on file with the Minn. Office Admin. Hearings)).

V. Incorporation by Reference

166. Any Conclusion of Law more properly considered to be a Finding of Fact is adopted herein.

167. Any portion of the accompanying Memorandum that is more properly considered to be a Finding of Fact is incorporated herein.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. ch. 414 (2022) and Minn. R. ch. 6000 (2023).

2. All jurisdictional prerequisites in this matter are satisfied and the Amended Petition is properly before the Administrative Law Judge for disposition.

3. Proper notice of the hearing in this matter was given.

4. The Township has the necessary resources to provide for its economical and efficient operation as a city as contemplated by Minn. Stat. § 414.01, subd. 1a(3).

5. The Township is suburban in character.³²⁸ The Township's finances and its level of services are consistent with that of a small city, and it has developed in a suburbanized pattern, including through the extensive development of platted, residential subdivisions.

6. Incorporation is required to protect the public health, safety, and welfare of the Township.³²⁹ Because it is funded through a levy set by electors at an annual meeting, the Township faces uncertainty regarding its ability to finance its ongoing operations, pay down debt, and fund planned community investments. By incorporating, it will solidify its borders and preserve its tax base, provide for consistent revenues via taxation, and obtain access to municipal funding resources and economic development tools.

7. Incorporation is in the best interests of the area proposed to be incorporated.³³⁰ The Township's current governmental structure is inadequate to meet its needs because it functions and serves its residents in a manner more consistent with the operations of a small city. Incorporation will allow the Township to govern itself through a mayor and city council with authority to set tax rates. Incorporation will also solidify the Township's borders and stabilize its tax base.

³²⁸ Minn. Stat. § 414.02, subd. 3(b)(1).

³²⁹ *Id.*, subd. 3(b)(2).

³³⁰ *Id.*, subd. 3(b)(3).

8. No part the Township would be better served by annexation to an adjacent municipality, other than the area designated in the City and Township's Orderly Annexation Agreement and annexed to the City in MBAU Docket No. OA-1894-1.³³¹

9. Minn. Stat. § 414.02 does not provide authority for the annexation of land to another community. The City did not file a petition for annexation under Minn. Stat. §§ 414.031, .033. As a result, there is no legal basis for annexation of any portion of the Township to the City.

10. Any Finding of Fact that is more properly considered to be a Conclusion of Law is incorporated herein.

11. These Conclusions of Law are reached for the reasons explained in the following Memorandum, which is incorporated by reference.

Based on these Findings of Fact and Conclusions of Law, and for the reasons set forth in the following Memorandum, the Administrative Law Judge makes the following:

ORDER

1. The Amended Petition for Incorporation of Baldwin Township (I-75) is **GRANTED**.

2. The Township shall hereby be incorporated as the City of Baldwin.

3. The incorporated City of Baldwin shall consist of all property within the Township, as legally described in Finding No. 19 above.

4. Incorporation shall be effective upon the election and qualification of the new City Council as set out in Paragraph 6 of this Order.

5. The form of government for the City shall be "Optional Plan A." An election of a mayor and four council members shall be held on November 5, 2024.³³²

6. Joan Heinen shall be the acting clerk for the election and shall prepare the official ballot. Affidavits of candidacy shall be filed not more than four weeks and not less than two weeks before the date of the election. The polling place shall be the Baldwin Town Hall located at 30239 128th Street N.W., Baldwin Township, Minnesota. The election judges shall be appointed in the same manner as the Township has appointed election judges for prior State General Elections. The hours of the election shall be 7:00 a.m. to 8:00 p.m. Candidates shall be permitted to file for the position of Mayor whose

³³¹ *Id.*, subd. 3(c); see ORDER APPROVING ANNEXATION, *In the Matter of the Orderly Annexation of Certain Real Property to the City of Princeton from Baldwin Township (MBAU Docket OA-1894-1)*, OAH Docket No. 71-0331-40140 (July 16, 2024).

³³² See Minn. Stat. § 205.10, subd. 3a(a) (2022) (establishing uniform election dates for city special elections).

term shall expire on December 31, 2026, a Council Member seat whose term shall expire on December 31, 2026, or a Council Member seat whose term shall expire on December 31, 2028. The two candidates filing for the Council Member seats expiring on December 31, 2026, who receive the most votes shall be elected to terms ending December 31, 2026. The two candidates filing for the Council Member seats expiring on December 31, 2028, who receive the most votes shall be elected to terms ending December 31, 2028. As the aforementioned terms begin to expire, elections shall be held during the November general elections of the year of the above-referenced term expiration dates, commencing with the general election to be held on November 2, 2026. Thereafter, the terms for City Council Members and the Mayor shall be for four years and two years respectively, as provided in Minn. Stat. § 412.02, and municipal elections shall be held during the November general election in even years. The position of Mayor and all Council Member positions shall be at-large positions. In all other respects, the election shall be conducted in conformity with the provisions of the Minnesota Statutes concerning the conduct of municipal elections.

7. The Township's Ordinances, as well as all other land use and planning controls, and all licensing privileges, shall remain in effect within the boundaries of the City of Baldwin until repealed or replaced by the new governing body of the City of Baldwin.

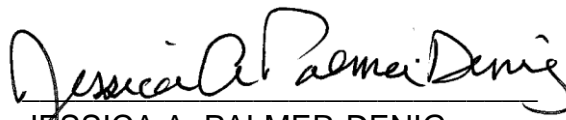
8. Upon incorporation, all money, claims, contract rights and obligations, equipment and property, including real estate owned, held or possessed by the former Baldwin Township, and any proceeds, special assessments or taxes levied by Baldwin Township, collected and uncollected, shall become the property of the City of Baldwin with full power and authority to use and dispose of for such public purposes as the City Council deems best, subject to claims of creditors. This will include cash reserves and fund balances of the Township and all public property and equipment held by Baldwin Township.

9. The Township's outstanding debt will become the financial obligation of the City of Baldwin.

10. Pursuant to Minn. Stat. § 414.12, subd. 3, the costs of this proceeding are the obligation of the Township and shall be paid in their entirety by the Township.

11. This Order is effective as of the date listed below.

Dated: July 16, 2024


JESSICA A. PALMER-DENIG
Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.02, 414.07, 414.09, 414.12. Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Sherburne County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions of Law and Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100. However, no request for amendment shall extend the time for appeal of this Order.

MEMORANDUM

The Township has met its burden to show that it has satisfied the factors for incorporation and that it should be incorporated as the City of Baldwin under Minn. Stat. § 414.02. Several issues raised in this proceeding, however, require additional discussion, including positions taken by the City and its request for annexation, and concerns expressed by residents of the Township.

I. The City's Arguments

A. Whether the Township is Suburban

The court first takes up the City's argument that the Township may not be incorporated because it is rural, rather than urban or suburban. First, Minn. Stat. § 414.02, subd. 3(b), provides that incorporation may be ordered on finding that:

- (1) the property to be incorporated is now, or is about to become, urban or suburban in character; or
- (2) that the existing township form of government is not adequate to protect the public health, safety, and welfare; or
- (3) the proposed incorporation would be in the best interests of the area under consideration.

The statute's three bases for incorporation are stated as alternatives and a petitioning township is required to satisfy only one of these terms to support an order for incorporation. Even in the absence of a finding that a community is urban or suburban, incorporation may be ordered on the other bases. Here, the court finds all three are satisfied.

Second, the City argues that the Township remains rural because it has objected to annexations solely because it wished to restrict growth. There are many reasons why a township would object to annexation of its property by a neighboring city. A township may wish to prevent the loss of part of its community. It may be attempting to stave off an

erosion of the township's tax base. It may also have concerns about whether annexation will render the remainder of the township unable to fulfill the functions of government.

Third, the record supports determining that the Township is suburban. Over 50 percent of the Township is zoned as residential and substantial portions of the Township have been developed into platted subdivisions.³³³ While approximately 40 percent of the Township's land remains in agricultural production, that does not render the Township rural as a whole. Evidence offered at the hearing shows that the Township has been transitioning toward suburban development for some time, and that the Township's financial structure, development plans, and level of services are consistent with those of a small city.

B. Impacts on the City

The City opposes incorporation on the basis that it will prevent the City from annexing Township lands to meet its own development goals. The City has little remaining land available for development.³³⁴ To increase the amount of available land for development, the City may decide to annex land from adjacent communities. The Township's incorporation will eliminate the City's ability to annex Township properties by ordinance, by order of this tribunal, or through an orderly annexation agreement, because only unincorporated property may be annexed using these tools.³³⁵ Instead, transfers of land between two cities must be accomplished through concurrent detachment and annexation under Minn. Stat. § 414.061. Such a proceeding may be initiated upon resolutions by both municipalities, or by a petition of the property owners and a resolution of one of the municipalities.³³⁶

Incorporation will solidify the Township's border with the City and could prevent the City from fulfilling plans it may have had to expand its territory into the northern portion of the Township. This concern does not provide a basis to deny the Township's petition to incorporate. If annexation of parcels in the Township was critical to the City's development goals, it could have pursued annexation before the Township sought to incorporate.

The City also objects to incorporation of the Township based on the City's plan to extend water and sewer service into a substantial portion of the Township. The City argues that it will be unable to receive a return on its investments, leaving its own residents to bear the full cost of its system. This issue generated considerable evidence and argument at the hearing, and it was the subject of a number of public comments from Township residents. The record shows that the City developed a general plan for extension of its water and sewer infrastructure outside of its own municipal boundaries and into the northern half of the Township. At the same time, the evidence demonstrates that the City does not have a current, concrete plan to effectuate this service extension.

³³³ Ex. 4 at 15; see also *Ossawinnamakee Road Homeowners v. Comm'r of City of Breezy Point*, A23-1186, 2024 WL 1252065 (Minn. Ct. App. Mar. 25, 2024) (upholding determination that property was not rural based in part on the development of platted, residential lots).

³³⁴ Test. of J. Edison.

³³⁵ Minn. Stat. §§ 414.031, .0325, .033.

³³⁶ Minn. Stat. § 414.061, subd. 1.

The City's Engineer referred to the plan as "hypothetical," and noted that the City only extends service when requested by a property owner or developer.³³⁷ Further, evidence received at the hearing shows that there are barriers to the extension of service in some areas of the Township. Nevertheless if, at some time in the future, the portions of the Township identified in the City's plan would benefit from extension of water and sewer services, the City and the City of Baldwin can negotiate a solution to that issue. The City's concern does not provide a basis to deny the Township's request to incorporate.

Finally, the City expressed concerns about the impact of incorporation on its DWSMA. The City stated that, "[i]f [the] Township is allowed to incorporate and provide for smaller lot rural subdivisions without establishing a municipal wastewater collection and treatment system, there is the potential for the [City's] drinking water to be adversely impacted."³³⁸ The Administrative Law Judge understands the City's valid desire to protect the source of its drinking water. At the same time, the concern expressed is too theoretical to require denial of the Township's Petition. There is no evidence that the Township will allow development of small-lot residential subdivisions; in fact, all evidence is to the contrary. The Township requires minimum lot sizes of 2.5 acres in order to accommodate an SSTS for each dwelling, and many properties are larger than that minimum lot size. Many commenters expressed their preference for large lot sizes, even suggesting that this was an essential part of the character of their community. While there is one subdivision, Nordwall Estates, with a CSTS that many require intervention by the Township at some point, there is no evidence that the Township's regulation of septic systems is ineffective or that systems are generally at risk of failure in a manner that would harm the City's DWSMA. The Administrative Law Judge encourages the City and the Township to engage in discussions about the best ways to protect the DWSMA and to work together to find solutions to address the City's concern and any other issues the two communities may face.

C. The City's Request for Annexation

The City alternatively requested that this tribunal order annexation of over 9,000 acres of the Township to the City. The City did not become a party to this proceeding, and it did not file a competing petition for annexation. Rather, the City participated as provided in Minn. R. 6000.1200, and it requested that this tribunal "grant" the lands at issue to the City rather than incorporate them along with the rest of the Township.

In an incorporation proceeding, Minn. Stat. § 414.02, subd. 3(a)(11), requires that the Administrative Law Judge consider whether services can best be provided by the proposed action or another type of boundary adjustment. The Administrative Law Judge has the authority to deny a petition for incorporation if some or all of the area identified would be better served by annexation to an adjacent municipality.³³⁹ The Administrative

³³⁷ Test. of J. Edison.

³³⁸ City of Princeton Evidentiary Testimony Opposing Baldwin Township Incorporation at 2.

³³⁹ Minn. Stat. § 414.02, subd. 3(c).

Law Judge may also exclude from incorporation property that would be better served by another unit of government.³⁴⁰

Minn. Stat. § 414.02 does not provide a mechanism for annexation of land as a grant to another governmental unit. In contrast, in an annexation by order of this tribunal, the Administrative Law Judge is expressly authorized to initiate a proceeding for annexation to a different community upon finding that land would be better served by a governmental unit other than the one seeking annexation.³⁴¹ If the legislature intended for the Office of Administrative Hearings to have authority to order an annexation in an incorporation proceeding, it could have expressly said so. It did not.

This tribunal is an administrative agency. Administrative agencies are “creatures of statute,” and have only the powers given to them by the legislature.³⁴² Minnesota’s legislature conferred jurisdiction over all boundary adjustment proceedings to the Office of Administrative Hearing, and established the legal standards for each type of boundary adjustment. The Administrative Law Judge is required to apply the law as written and may not create new standards or remedies not provided by the legislature. Therefore, the City’s request for a grant of Township lands is denied.

Even if the Administrative Law Judge had authority to order annexation as requested by the City, the record does not support finding that property in the Township would be better served by annexation to the City. The Township and City spent a considerable amount of time at the hearing debating the relative number and quality of the services each of them provides. The City offers a full slate of services to its residents, but so does the Township. The Administrative Law Judge finds, on the whole, that the level of services each of them offers to residents is generally comparable. The City provides water and sewer service, and for the most part, the Township does not. But extension of these services is not a practical reality at this time, and may not ever be based on the issues identified at the hearing. Finally, residents of the Township who participated in this proceeding are universally and vehemently opposed to annexation. There is no basis in this record to conclude that the portion of the Township identified by the City as its desired annexation area would be better served by annexation over incorporation.³⁴³

Finally, while the City provided a map showing the area it desired to annex, the City did not provide a legal description of the area. Under Minn. R. 6000.0800, a petition seeking approval of a proposed boundary adjustment must be accompanied by a geographical description of the subject area. In the absence of such a description, a petition must be denied because the proposed boundary lines cannot be accurately determined and incorporated into an order, or later recorded by a county in the property records. The City did not file a petition in this case, and it did not otherwise provide a legal

³⁴⁰ *Id.*, subd. 3(d).

³⁴¹ Minn. Stat. § 414.031, subd. 3(h).

³⁴² *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010).

³⁴³ As noted above, the City and Township have agreed to annexation of a specific parcel of land to the City pursuant to Minn. Stat. § 414.0325. Annexation of that land is approved by separate Order issued simultaneously herewith.

description in its submissions. Therefore, in addition to the other reasons listed for denying the City's request, the record lacks a legal description sufficient to support an annexation order.

II. Concerns Expressed by Township Residents

This proceeding had an extraordinarily high level of participation by the public. The Administrative Law Judge commends residents of the Township for their engagement in this civic process. The Administrative Law Judge has carefully considered all comments submitted in this matter.

Some residents of the Township who participated in this proceeding were concerned that the Town Board did not bring the issue of incorporation before them for a vote. Some commenters further asked that this proceeding be dismissed because they had not had an opportunity to vote on the issue. The Administrative Law Judge appreciates and understands the desire for an opportunity to address issues through the democratic process.

The statute governing incorporation, however, does not require that a vote by the community be held before a township files a petition. The Administrative Law Judge does not have the authority to dismiss a valid petition for incorporation that is lawfully filed by a township's board - as this one was - because residents did not vote on the issue themselves. Reaching such a result would be a reversible legal error. Further, the Township proved that it met the standards for incorporation. Therefore, based on the record and the law, the Petition must be approved.

The Administrative Law Judge encourages residents of the Township to engage with the Town Board and to actively participate in the government of their new city. The Administrative Law Judge also encourages the Town Board to have meaningful discussions with Township residents about the concerns that members of the community raised in this proceeding.

J. P. D.